

DEAR CLERK OF THE COURT

RE: JOSE ANTHONY BORJA

PETITIONER - APPELLANT

✓

MATHEW CATE CDJR SECRETARY

RESPONDENT - APPELLEE

NO. 12 - 56187

D.C. NO. 2:09 - CV - 02420 - DDP - SS

C.D. CAL LOS ANGELES DIV.

RECEIVED
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOV 23 2012

FILED
DOCKETED
DATE
INITIAL

DEAR CLERK - I AM UNABLE TO TO SEND THE RESPONDENTS, A COPY OF THIS DECLARATION & MOTION UNDER FED. R. APP. P. 18, AS WELL AS THE AMOUNT OF COURT REQUIRED COPIES - WITHOUT CAUSING A DELAY AS IT IS EXTREMELY HARD TO GET ACCESS TO THE LAW LIBRARY HERE AT KVSP. HOWEVER THRU UNCONVENTIONAL MEANS I WAS ABLE TO OBTAIN ONLY 1 COPY FOR MYSELF WHICH I AM SENDING WITH THE COURTS "1. ORIGINAL COPY" TO BE FILED STAMPED RETURNED. THERE FOR I AM UNABLE TO SEND THE ATTORNEY GENERAL THEIR COPY, UNLESS I WAIT ABOUT 2 MORE WEEKS TO BE CALLED UP TO OUR LAW LIBRARY.

THIS DECLARATION IS NOT BEING MADE FOR ANY IMPROPER PURPOSES SUCH AS TO HARASS OR CAUSE DELAY AND I JOSE ANTHONY BORJA DECLARE UNDER THE PAINS AND PENALTIES OF PERJURY THAT THE FORE GOING IS TRUE COMPLETE AND CORRECT AND NOT MEANT TO BE MISLEADING TO THE BEST OF MY FIRST HAND

DATE 11/15/2012

JOSE BORJA
JOSE ANTHONY BORJA
PETITIONER - APPELLANT
(IN PRO PER)

STATE OF CALIFORNIA

COUNTY OF KERN

VERIFICATION

C.C.P. SEC. 466 & 2015.5; 28 U.S.C. SEC. 17460

I JOSE ANTONIO BORJA declare under penalty of perjury that: I am thePETITIONER - APPELLANT in the above entitled action. I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon information, and belief, and as to those matters, I believe they are true.Executed this 15 day of NOVEMBER, 2012, Kern Valley State Prison.Signature Jose Borja
DECLARANT/PRISONERRECEIVED
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOV 23 2012

PROOF OF SERVICE BY MAIL

C.C.P. SEC. 1013(a) & 2015.5; 28 U.S.C. SEC. 1746

FILED _____
DOCKETED _____
DATE _____ INITIAL _____I JOSE BORJA, am a resident of California State Prison, in the County of KERN, State of California: I am over the age of eighteen (18) years and am/am not a party of the above-entitled action. My state prison address is: P.O. Box 5104, Delano, CA. 93216.On NOVEMBER 15, 2012, I served the foregoing LETTER RE: EXPLANATION of COURT
REQUESTED COPIES and NO COPY for RESPONDENTS (A.G.) TO CLERK of COURT

Set forth exact title of document(s) served

On the party(s) herein by placing a true copy(s) thereof, enclosed in sealed envelope(s) with postage thereof fully paid, in the United States Mail, in a deposit box so provided at KERN Valley State Prison, Delano, CA. 93215.

CLERK of COURT
U.S. COURT OF APPEALSFOR THE NINTH CIRCUIT
JAMES R. BROWNING COURT HOUSE
P.O. BOX 193939
SAN FRANCISCO, CA 94119-3939

List parties served

There is delivery service by United States Mail at the place so addressed, and/or there is regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 11/15/2012Jose Borja
DECLARANT/PRISONER

RECEIVED
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOV 23 2012

FILED
DOCKETED

DATE

INITIAL

JOSE ANTHONY BORJA

COC # T-54311
KVSP-RAE-04-1001L
P.O. BOX-5104
DELANO, CA 913216
(IN PRO PER)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOSE ANTHONY BORJA

PETITIONER-APPELLANT

V.

MATHEN WATE, COCR. SECRETARY,

RESPONDENT-APPELLEE

NO. 12-56187

D.C. NO. 209-CV-02420-DOP-SS,

[CD. CAL. LOS ANGELES DIV.]

FED. R. APP. P. 18 MOTION TO STAY FOR PROCEDURAL REVIEW

; DECLARATION IN SUPPORT [PROPOSED ORDER]

JOSE ANTHONY, PETITIONER-APPELLANT IN THE ABOVE ENTITLED MATTER
AM REQUESTING IN THIS MOTION A 90 DAY STAY OF TIME TO CONDUCT A PROCEDURAL
REVIEW FED. R. APP. P. 18 AND NEW DEADLINE UP TO AND INCLUDING FEBRUARY 12
2012 90 DAYS FROM TODAY'S DATE TO FILE A MOTION FOR CERTIFICATE OF
APPEALABILITY.

GOOD CAUSE IS SHOWN FOR THIS REQUEST IN THE ATTACHED DECLARATION
OF PETITIONER.

DATED NOVEMBER 12, 2012

RESPECTFULLY SUBMITTED,

Jose A Borja

JOSE ANTHONY BORJA

PETITIONER-APPELLANTE IN PRO SE

DECLARATION OF JOSE A BORSA

IN SUPPORT OF MOTION FOR STAY & NEW DEADLINE, FOR PROCEDURAL REVIEW FED. R. APP. P 18.

I JOSE ANTONIO BORSA DECLARE;

1) I AM THE PETITIONER - APPELLANT IN THIS MATTER AND MAKE THIS DECLARATION IN SUPPORT OF MY MOTION TO STAY FOR PROCEDURAL REVIEW FOR 90 DAYS IN ORDER TO FILE MY MOTION FOR CERTIFICATE OF APPEALABILITY.

2) THE DEADLINE IN WHICH TO FILE MY APPLICATION FOR (COA) WAS AUGUST 24 2012 AFTER BEING GRANTED ONE - THIRTY DAY ENLARGEMENT OF TIME.

3) FOR THE FORE GOING REASONS THE DEADLINE PASSED AND THIS WAS NOT MET.

4) FIRST - I HAVE NO LEGAL OR EXPERIENCE AND I HAD TO ENLIST THE SERVICES AND HELP OF A FELLOW PRISONER - RAYN DICKY O'BRIEN A RESIDENT OF PLEASANT VALLEY STATE PRISON WHO HAS DONE MOST DOCUMENTS FOR ME, INCLUDING OBJECTIONS TO THE REPORT & RECOMMENDATIONS OF THE U.S. MAGISTRATE JUDGE, AND DOCKET ENTRY NO. 3 OF THIS COURT U.S. COURT OF APPEALS FOR THE NINTH CIRCUIT DATED 7/30/2012 FOR THE INSTANT CASE (A MOTION FOR A 30 DAY ENLARGEMENT OF TIME TO FILE MOTION FOR CERTIFICATE OF APPEALABILITY WHICH IS CLEAR, BY HIM SIGNING OFF ON DECLARATION OF SERVICE BY U.S. MAIL DATED JULY 22, 2012. THE MOTION WAS GRANTED, (ORDER, DOCKET ENTRY NO. 4) DEADLINE WAS NOW AUGUST 24, 2012

5) SECOND - THE APPLICATION WAS SENT IN PRIOR TO THE AUGUST 24, 2012 DEADLINE, ON OR AROUND AUGUST 19, OR 20, 2012. THERE WAS ONLY ONE ADDITIONAL COPY OF MY MOTION IN WITH THE ORIGINAL WITH NO OTHER ADDITIONAL COPIES KEPT FOR PETITIONER APPELLANT. COPIES COULD NOT BE MADE AT THE TIME, AND NOTED IT IN WITH THE MOTION & ALSO INCLUDED WAS A PRE-ADDRESSED STAMPED ENVELOPE FOR A "FILED" STAMPED RETURN COPY. AFTER BEING NOTIFIED OF THE FILING AND NOT RECEIVING ANYTHING FROM THE COURT.

ON OCTOBER 10, 2012 I SENT A LETTER TO THE CLERK OF THE COURT

REQUESTING A COPY OF MY MOTION FOR(COA) (DOCKET ENTRY NO. 5 DATED OCTOBER 19, 2012.)

6) THIRD - ON NOVEMBER 6, 2012 I RECEIVED & SIGNED FOR A ENVELOPE BY CLERK OF THE COURT THAT CONTAINED A COPY OF THE DOCKET TEXT, THAT DID NOT REFLECT THE RECEIVING OR FILING OF MY APPLICATION FOR(COA) & ALSO STATED MY FEE WAS DUE ON STATUS.

7) FOURTH - PETITIONER APPELLANTE IS ASKING OF THE HONORABLE COURT FOR 90 DAYS STAY OF DAYS TO CONDUCT A PROCEDURAL REVIEW SO THAT PETITIONER CAN TRY AND FIND OUT WHAT HAPPEND TO THE MOTION, OBTAIN A STAFF NAME, OUTGOING MAIL LOG IF POSSIBLE AND DRAFT ANOTHER MOTION FOR CERTIFICATE OF APPELLABILITY, DUE TO THIS UNFORESEEN EVENT AND ALSO CONTACT & RECEIVE INFORMATION OF THIS MATTER WITH - RAIN DICKEY, OBTEN THE FELLOW PRISONER WHO HAS BEEN HELPING/WORKING ON MOST OF MY CASE WHO IS IN ANOTHER INSTITUTION.

8) FIFTH - AS PREVIOUSLY STATED I HAVE NO LEGAL TRAINING EDUCATION OR EXPERIENCE AND ALL PRISONS INCLUDING THIS ONE HAVE SEVERE STAFF SHORTAGES RESULTING FROM THE STATES BUDGETARY CHRISES AND ARE ONLY ALLOWED 2 1/2 HOURS OF LAW LIBRARY AT A TIME ON A ROTATIONAL BASIS AND ONLY WITH A COURT ORDERED DEADLINE OTHER WISE YOUR CALLED IN WHEN YOUR CALLED IN ONCE EVERY 2 OR 3 WEEKS.

9) SIXTH - MY CASE IS RELETIVLY COMPLEX AND THUS NECESSATATES A MORE LENGTHY PRESENTATION OF THE FACTUAL & LEGAL ISSUES, I WAS CONVICTED ON EIGHT COUNTS INCLUDING, ATTEMPTED MURDER AND MY MOTION DEALS WITH THREE DIFFERENT ERRORS MADE BY THE DISTRICT COURT.

10) SEVENTH - THIS STAY OF 90 DAYS & REQUEST FOR A NEW DEADLINE TO FILE APPLICATION FOR CERTIFICATE OF APPELLABILITY IS NOT BEING MADE FOR ANY IMPROPER PURPOSES SUCH AS TO HARASS, ANNOY, DELAY OR CAUSE ANY KIND OF BURDEN ON THE RESPONDENTS (A.G) OR THE COURT HOWEVER IT IS NECESSARY IN ORDER TO PROCEED WITH MY

APPLICATION FOR CERTIFICATE OF APPEALABILITY AND CHALLENGE CONSTITUTIONAL INJURY.

(1) BASED ON THE FORE GOING I RESPECTFULLY REQUEST A 90 DAY STAY TO CONDUCT A PROCEDURAL REVIEW, ~~RECEIVED~~ AND FILE. ANOTHER APPLICATION FOR CERTIFICATE OF APPEALABILITY UP TO AND ~~AND~~ INCLUDING FEBRUARY 12, 2012.

(2) I DECLARE UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

DATE NOVEMBER 12, 2012

Jose A. Borja
JOSE ANTONIO BORJA
DECLARANT, APPELLANT.

JOSE ANTONIO BORJA
COC# T-54311
KVSP FAC. 04-100L
P.O. BOX 5104
DELANO, CA 93216
(IN PRO PER)

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JOSE ANTONIO BORJA,
PETITIONER- APPELLANT
v
MATHEN CATS, COCR SECRETARY
RESPONDENT- APPELLEE

NO. 12-56187

DC NO. 209-CV-03420-DDP:SS

[C.D. CALLOS NIGER DEN]

FED P. APP. P. 18 MOTION TO STAY FOR PROCEDUR
AL REVIEW; DECLARATION IN SUPPORT

[ORDER]

ON MOTION OF PETITIONER- APPELLANT, AND GOOD CAUSE APPEARING
IT IS HEREBY ORDERED THAT PETITIONER- APPELLANT IS GRANTED 90
DAY STAY OF TIME TO AND INCLUDING FEBRUARY 12, 2012 IN WHICH
TO FILE A MOTION FOR CERTIFICATE OF APPELLABILITY.
IT IS SO ORDERED.

DATED _____

U.S. COURT OF APPEALS JUSTICE

STATE OF CALIFORNIA

COUNTY OF KERN

VERIFICATION

C.C.P. SEC. 466 & 2015.5; 28 U.S.C. SEC. 17460

I JOSE ANTONIO BORJA declare under penalty of perjury that: I am thePETITIONER - APPELLANT in the above entitled action. I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon information, and belief, and as to those matters, I believe they are true.Executed this 12 day of NOVEMBER, 2012, Kern Valley State Prison.Signature Jose Borja
DECLARANT/PRISONERRECEIVED
MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOV 23 2012

PROOF OF SERVICE BY MAILFILED _____
DOCKETED _____
DATE _____ INITIAL _____

C.C.P. SEC. 1013(a) & 2015.5; 28 U.S.C. SEC. 1746

I JOSE ANTONIO BORJA, am a resident of California State Prison, in the County of KERN, State of California: I am over the age of eighteen (18) years and am/am not a party of the above-entitled action. My state prison address is: P.O. Box 5104, Delano, CA. 93216.On NOVEMBER 12, 2012, I served the foregoing DECLARATIONS;
MOTION FOR 90 DAY STAY PROCEEDURAL
REVIEW FEL.P APP. P. 18; DECLARATION IN SUPPORT JAIL NEW DEADLINE & LETTER
PIGMENTAL COPIES & COPY FOR RESPONDENTS.

Set forth exact title of document(s) served

On the party(s) herein by placing a true copy(s) thereof, enclosed in sealed envelope(s) with postage thereof fully paid, in the United States Mail, in a deposit box so provided at KERN Valley State Prison, Delano, CA. 93215.

OFFICE OF THE CLERK
JAMES R. BROWNING COURTHOUSE
U.S. COURT OF APPEALS
P.O. Box 193939
SAN FRANCISCO, CA 94119-3939DAVID E. MADEO, ESQ.
OFFICE OF THE ATTORNEY GENERAL
300. SOUTH SPRING ST #1702
LOS ANGELES, CA 90013

List parties served

There is delivery service by United States Mail at the place so addressed, and/or there is regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: 11/12/2012Jose Borja
DECLARANT/PRISONER